

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENNETH DAY,

Plaintiff,

v.

FLAGSTAR BANK, F.S.B. *et al.*,

Defendants.

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CIVIL ACTION NO. 6:13-cv-803

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE**

Two Report and Recommendations of the Magistrate Judge, which contain her findings, conclusions, and recommendations for the disposition of this case, have been presented for consideration. The first Report and Recommendation (Doc. No. 10) recommends that Plaintiff's Motion to Abate Justice of the Peace Court Action be denied. The Report was sent to Plaintiff via certified mail on December 6, 2013. It was returned "unclaimed" on January 22, 2014 (Doc. No. 11). The Report was remailed on January 31, 2014. It was again returned "unclaimed" on March 20, 2014. (Doc. No. 14).

Due to Plaintiff's failure to accept mail from the Court, a second Report and Recommendation (Doc. No. 12) was issued recommending that the case be dismissed without prejudice for failure to prosecute. An acknowledgment of receipt card (Doc. No. 13) reveals that someone at the Plaintiff's address signed for the Report on January 27, 2014.

No written objections have been filed for either Report and Recommendation. The Court therefore adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

ORDERED that Plaintiff's Motion to Abate Justice of the Peace Action is **DENIED**. It is further ordered that Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

So ORDERED and SIGNED this 31st day of March, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE